

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Government Efficiency Appropriations Committee

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BILL: CS/CS/SB 2434

SPONSOR: Government Efficiency Appropriations Committee, Transportation Committee and Senator Sebesta

SUBJECT: Driver Responsibility

DATE: April 26, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Munroe</u>	<u>Wilson</u>	<u>HE</u>	<u>Fav/2 amendments</u>
3.	<u>Keating</u>	<u>Johansen</u>	<u>GE</u>	<u>Fav/CS</u>
4.	_____	_____	<u>TA</u>	_____
5.	_____	_____	<u>WM</u>	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill creates the “Florida Driver Responsibility Law,” to provide for an assessment of surcharges on persons who are convicted of driving without financial responsibility, or who are convicted of driving under the influence (DUI), all within the preceding thirty-six month period. Assessments of these surcharges do not apply to any convictions final before July 1, 2005. The annual surcharges range from a minimum of \$250 to a maximum of \$2,000. Funds derived from the surcharges are to be deposited in the DOH Administrative Trust Fund to fund trauma centers.

This bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to notify the holder of a driver’s license by first class mail of the assessment of a surcharge, the date by which the surcharge must be paid, and the consequences of a failure to pay the surcharge.

This bill authorizes the payment of surcharges through installment payments or by the use of a credit card and provides penalties for failure to comply. This bill further authorizes the DHSMV to enter into a contract with a public or private vendor for the collection of surcharges.

This bill creates ss. 322.75, 322.7513, 322.7515, 322.7525, 322.753, 322.7535 and 322.754 of the Florida Statutes.

## II. Present Situation:

### Driving Under the Influence

A conviction for DUI requires proof that the person was driving or in actual physical control of a vehicle and either: (1) the person’s blood-alcohol or breath-alcohol level at the time was 0.08 percent or greater; or (2) the person was under the influence of alcohol, a chemical

substance or a controlled substance to the extent their normal faculties were impaired. (See s. 316.193(1), F.S.) During 2003, 34.5 percent of Florida's traffic fatalities and 9.4 percent of Florida's traffic crashes were alcohol-related.

Penalties for DUI vary according to the frequency of previous convictions, the offender's blood alcohol level (BAL) when arrested, and whether serious injury or death results. If a driver is stopped by a law enforcement officer for suspicion of DUI and refuses to take a test, his or her driving privilege is automatically suspended for one year.

Generally, modified misdemeanor penalties apply when there has been no property damage or personal injury and when there have been fewer than three DUI convictions. For example, a first-time offender is subject to a fine ranging from \$250 to \$500, as well as being subject to serving up to six months in county jail. He must also be on probation for up to one year and participate in 50 hours of community service. However, if the convicted offender's BAL is 0.20 or higher, or if a passenger under 18 years of age is present in the vehicle, the penalty is enhanced to a fine ranging from \$500 to \$1,000 and imprisonment not exceeding nine months.

A second DUI conviction carries a fine ranging from \$500 to \$1,000 and imprisonment for a period of up to nine months. However, if that offense occurs within five years of a previous DUI conviction, there is a mandatory imprisonment period of at least 10 days. At least 48 hours of this confinement must be consecutive. Enhanced penalties also apply when the offender's BAL is 0.20 or higher, or when a passenger under the age of 18 is present in the vehicle. These penalties require a fine ranging from \$1,000 to \$2,000, and imprisonment not exceeding 12 months.

A third or subsequent DUI conviction occurring more than 10 years after a prior conviction carries a fine ranging from \$1,000 to \$2,500 and possible imprisonment of up to 12 months. However, if that offense occurs within 10 years of a previous DUI conviction, it is a third-degree felony, punishable by a minimum fine of \$1,000 but not exceeding \$5,000, and a term of imprisonment not to exceed five years. There is also a 30-day minimum mandatory imprisonment period. At least 48 hours of this confinement must be consecutive. The offense of felony DUI for a third conviction within 10 years of a prior conviction is a level three offenses in the offense severity-ranking chart. Enhanced penalties also apply when a third time (or subsequent) offender's BAL is 0.20 or higher, or when a passenger under the age of 18 is present in the vehicle while the driver is DUI. These penalties require a fine ranging from \$2,000 to \$5,000 and imprisonment not exceeding 12 months.

A fourth or subsequent DUI conviction is a third-degree felony penalty, which is punishable by a minimum fine of \$1,000 but not exceeding \$5,000, and a term of imprisonment not to exceed five years. The offense of felony DUI for a fourth or subsequent DUI offense is ranked within level six of the offense severity-ranking chart.

#### *Driving Without Required Insurance or Security*

Owners of vehicles must have evidence of required insurance, including financial responsibility requirements if applicable, when obtaining or annually renewing their vehicle registration and license tag (See s. 320.02, F.S.). Vehicle operators must also carry an insurance card, to demonstrate required coverage at all times while operating a motor vehicle (See

s. 316.646, F.S.). Any person who violates this section is guilty of a nonmoving traffic infraction punishable by a fine of \$30 plus applicable court costs and fees and shall be required to furnish proof of security as provided in this section. The fees and court costs vary county by county, but the total paid for each citation would range from \$68.50 to \$74.50. If any person charged with a violation of this section fails to furnish proof, at or before the scheduled court appearance date, that security was in effect at the time of the violation, the court may immediately suspend the registration and driver's license of such person.

#### No-Fault Law

Under the Florida Motor Vehicle No-Fault law, motor vehicle owners are required to maintain \$10,000 of personal injury protection (PIP) coverage at all times during the licensing or vehicle registration period. Subject to co-payments and other restrictions, PIP insurance provides compensation for bodily injuries to the insured driver and passengers regardless of who is at fault in an accident. This coverage also provides the policyholder with immunity from liability for economic damages up to the policy limits and for non-economic damages (pain and suffering) for non-permanent injuries. Property damage liability (PDL) coverage of \$10,000 is also required, which pays for the property damage expense caused by the insured to third parties in the accident.

To obtain driver compliance, Florida has enacted the following enforcement measures.

Section 627.736(9), F.S., requires each insurer which has issued a policy providing PIP benefits to report the renewal, cancellation, or nonrenewal thereof to the DHSMV within 45 days from the effective date of the renewal, cancellation, or nonrenewal. Upon the issuance of a policy, providing PIP benefits to a named insured not previously insured by the insurer during that calendar year, the insurer must report the issuance of the new policy to the DHSMV within 30 days.

Motorists must have proof of insurance when renewing their license, purchasing license tags or operating a vehicle.

As a result of enforcement of the measures listed above, the population of uninsured drivers has been reduced from 15 to 4 percent over the past five years.

#### Financial Responsibility Law

The Florida "Financial Responsibility Law" (chapter 324, F.S.), requires drivers to demonstrate their ability to respond to damages for bodily injury caused in an accident. This law requires a minimum level of bodily injury liability (BI) insurance, or other allowable form of security, but only after a driver has been involved in an accident or convicted of certain serious traffic offenses. Such proof of BI coverage is not required as a condition of registering a vehicle, as is required for PIP and PDL, unless the Financial Responsibility law has been triggered by a prior accident or conviction. The minimum amounts of liability coverage required are \$10,000 in the event of bodily injury to, or death of, one person; \$20,000 in the event of injury to two or more persons; and \$10,000 in the event of injury to property of others; or \$30,000 combined single limit. If the owner or operator of the vehicle is not financially responsible at the time of an accident, that individual's driver's license is suspended as well as the registration of the owner of

the vehicle. An individual can comply with the Financial Responsibility law in several ways: liability insurance, surety bond, deposit of cash or securities, or self-insurance.

### Trauma Care

Part II, chapter 395, F.S., governs trauma services and trauma center operations in Florida. There are 21 state-approved trauma centers in Florida. The Department of Health (DOH) regulates trauma centers and has developed minimum standards for trauma centers based on national trauma standards. The DOH also has statutory authority to develop an inclusive trauma system to meet the needs of all injured trauma victims, which is accomplished through the development of a state trauma system plan and coordination with local trauma agencies.

Section 395.4001, F.S., defines various types of trauma centers. A “Level I trauma center” is defined to mean a trauma center that:

- Has formal research and education programs for the enhancement of trauma care and is determined by the DOH to be in substantial compliance with Level I trauma center and pediatric trauma referral center standards.
- Serves as a resource facility to Level II trauma centers, pediatric trauma centers, and general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

A “Level II trauma center” is defined to mean a trauma center that:

- Is determined by the DOH to be in substantial compliance with Level II trauma center standards.
- Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care.

A “Pediatric trauma center” is defined to mean a hospital determined by the DOH to be in substantial compliance with pediatric trauma referral center standards as established by rule of DOH.

Part II, chapter 395, F.S., places legislative emphasis on the need for an inclusive trauma system, which provides Floridians and visitors timely access to trauma care. Trauma standards and procedures are based on the “golden hour” principle, which is the optimal timeframe for the delivery of services to trauma victims. The DOH has the primary responsibility for the oversight, planning, monitoring and establishment of a statewide inclusive trauma system. Of the twenty-one trauma centers in the state, specifically, there are seven Level I trauma centers, twelve Level II trauma centers, of which five are also pediatric centers, and two pediatric trauma centers only.

### **III. Effect of Proposed Changes:**

**Section 1.** Creates s. 322.75, F.S., to provide a short title for ss. 322.75-322.754, F.S., which is known as the “Florida Driver Responsibility Law.”

**Section 2.** Creates s. 322.7513, F.S., to require the DHSMV to assess a \$250 surcharge on each person who has been convicted within the preceding 36-month period for driving without financial responsibility (s. 316.646(1), F.S.). This section does not apply to a conviction prior to July 1, 2005.

**Section 3.** Creates s. 322.7515, F.S., to require the DHSMV to assess a surcharge on each person who has a final conviction during the preceding 36-month period for an offense relating to s. 316.193, F.S., DUI. The surcharge amount is \$1,000 per year for one conviction within the preceding 36-month period, \$1,500 upon a second or subsequent conviction, and \$2,000 for a first or subsequent conviction if the blood-alcohol level was 0.20 or higher at the time the analysis was performed. This section does not apply to convictions final prior to July 1, 2005.

**Section 4.** Creates s. 322.7525, F.S., to require the DHSMV to notify the holder of a driver's license by first class mail of the assessment of a surcharge, the date by which the surcharge must be paid, and the consequences of a failure to pay the surcharge. If the surcharge is not paid or the person fails to enter into an installment payment agreement with the DHSMV before the 30th day after the notice is sent, the person's driving privilege will be suspended until full payment of the surcharge and any related costs are paid or until the person has entered into an agreement for payment of the surcharge as provided in s. 322.753, F.S.

**Section 5.** Creates s. 322.753, F.S., to require the DHSMV to provide for collection of all surcharges through an installment payment plan. If a licensee fails to pay or initiate an installment payment plan within 30 days of notification, the driver's license will be suspended. For amounts less than \$2,300, the DHSMV may authorize an installment plan for up to 12 months. For amounts over \$2,300, the DHSMV may authorize an installment plan for up to 24 months. Also, this section allows the DHSMV the discretion to permit licensees to pay assessed surcharges with credit cards. In the event the credit card issuer returns a credit card payment, the DHSMV must suspend driving privileges until the assessment and any other related fees are paid. Implementation of this section will require the Bureau of Accounting to establish a system for such collections, tracking, follow-up correspondence, and contracted programming modifications to the Driver License Software Systems for the enforcement of these provisions.

**Section 16.** Creates s. 322.7535, F.S., to authorize the DHSMV to enter into contracts with public or private vendors for the collection of all surcharges created under chapter 322, F.S.

**Section 7.** Creates s. 322.754, F.S., to provide for the deposit of moneys derived from surcharges collected by the DHSMV under the Florida's Driver Responsibility Law into the DOH Administrative Trust Fund to provide financial support to trauma centers. The DHSMV is authorized to retain all departmental costs associated with the operation of this law before depositing the moneys into the DOH's Administrative Trust Fund. In particular, moneys collected will be allocated as follows:

- Fifty percent equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services; and
- Fifty percent among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the DOH Trauma Registry.

**Section 8.** Provides that the bill take effect February 1, 2006.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has not done a fiscal impact on this bill. However, the REC did review a similar bill during the 2004 Legislative session, CS/SB 1496. Included in CS/SB 1496 was the provision requiring the DHSMV to impose DUI surcharges of \$1,000, \$1,500 and \$2,000. First year collections could not be determined by the REC. In the second year, the REC estimated receipts of \$24.2 million. If the 2004 REC estimates are used, receipts of \$36.2 million would be received in fiscal year 2007-08. These estimates are based on DUI convictions of 48,305 for calendar year 2002, with 25 percent of surcharges collected.

In addition, the bill requires the DHSMV to annually assess a \$250 penalty on each person who has been convicted, within the preceding 36-month period, for a violation of s. 316.646(1), F.S., relating to proof of personal injury protection required by s. 627.733. According to the DHSMV, there were 59,894 persons convicted of driving without personal injury protection in fiscal year 2003-04. Based on these figures, the \$250 penalty would generate \$15 million to fund trauma care.

B. Private Sector Impact:

Persons who are convicted for DUI or driving without insurance would be required to pay an annual surcharge for a three-year period to avoid license suspension.

Although a method of payment or compensation for vendors is not specified in the bill, a vendor contracting with DHSMV to collect the surcharges imposed under chapter 322, F.S., would most likely benefit by presumably either retaining a portion of the amounts collected or by being paid on some other contractual basis.

**C. Government Sector Impact:**

The DOH would be required to implement procedures and processes to manage the Administrative Trust Fund revenues, determine allocation methodologies and disseminate funds. There are currently twenty-one trauma centers in Florida as follows: six level I trauma centers, seven level II trauma centers, five level II and pediatric trauma centers, and two pediatric only trauma centers. Shands Hospital at the University of Florida is a provisional level I trauma center.

Currently, the DOH receives no funding to support the existing trauma centers. Trauma centers in Florida received a lump sum disproportionate share payment in fiscal year 2002 of approximately \$11,000,000 and 2003 of \$13,000,000, but in other years, they have received no reimbursement for uncompensated care.

The DHSMV is authorized to retain surcharge moneys to cover the cost associated with the implementation of the provisions of this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.



## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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